IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 7019 of 2007()

CRIME NO.315/06 OF FEROKE POLICE STATION

: PETITIONER/ACCUSED

SABU @ SHAHUL HAMEED, S/O. MOIDEEN KOYA, AGED 18 YEARS, CHEROKODE HOUSE, BEYPORE POST, CALICUT.

BY ADV. SRI.K.ANTONY JOSEPH

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA, THROUGH THE SUB INSPECTOR OF POLICE, FEROKE POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7019 of 2007

Dated this the 19th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. Altogether there are 2 accused persons. He faces allegations in a crime which is being investigated now under Section 379 I.P.C.

2. The 1st accused was found under suspicious circumstances with a two wheeler in his possession. He was arrested on 1.11.06. His interrogation revealed to the police that the vehicle was a stolen one and that it was entrusted to the 1st accused by the petitioner herein, the 2nd accused for disposal. Crime has been registered initially within the jurisdiction of Beypore police. The same has been transferred subsequently to the Feroke police, within the jurisdiction of which, the offence has allegedly been committed. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He prays that anticipatory bail may be granted to the petitioner in these circumstances.

4. The learned Public Prosecutor opposes the application. The allegations are serious. Custodial interrogation of the petitioner - allegedly the one who has committed the offence, is absolutely

necessary. The petitioner may not be permitted to arm himself with an order of anticipatory bail. He may be directed to surrender before the Investigating Officer or the learned Magistrate and then seek regular bail, submits the learned Public Prosecutor .

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

6. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

7. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-